

REGULATORY IMPACT STATEMENT UPDATE

October 28, 2010

KAR 28-19-325

New Permanent Air Quality Regulation

The notice of hearing and public comment period of at least 60 days regarding the above-referenced Kansas Department of Health and Environment (KDHE) air quality regulation concerning compressed air energy storage was published in the *Kansas Register* on August 26, 2010. The notice is included in the official record of the proceedings for adoption of this regulation as Attachment 1 to the Report of the Hearing Officer. During the public comment period preceding the hearing, KDHE received a comment letter from Raney L. Gilliland, Kansas Legislative Research Department, on behalf of the Joint Committee on Administrative Rules and Regulations. The public comment period was kept open for receipt of written public comment postmarked no later than the day of the hearing.

The public hearing was conducted at 11:00 a.m., Tuesday, October 26, 2010, at the Kansas Department of Health and Environment, Curtis State Office Bldg., Rm. 530, Topeka. In addition to the hearing officer, four KDHE staff persons attended. The sign-in sheet listing persons attending the hearing is included in the Report of the Hearing Officer as Attachment 2. There were no persons from the public present at the hearing. No oral or written comment from the public regarding the proposed regulation was presented or received at the hearing. No additional public comment was received during the comment period.

Pursuant to KSA 2009 Supp. 77-416, and amendments thereto, the agency provided copies of the proposed regulation and regulatory impact statement to the League of Kansas Municipalities, Kansas Association of Counties and Kansas Association of School Boards for their review and requesting information or comment that the agency should consider regarding the impact of the proposed regulation. No comment was received from any of these organizations.

All comment was fully reviewed and considered. After careful consideration, the agency determined that no changes in the proposed regulation were needed to address the comment or to update any statutory citations in the regulation history. KDHE prepared a responsiveness summary that lists each comment received and provides a detailed explanation of the agency's response to address each comment. The hearing officer entered both the public comment and the responsiveness summary into the official record of the proceedings and these documents were attached to and made a part of the Report of the Hearing Officer as Attachment 3 and Attachment 4, respectively.

Based on the administrative record, the hearing officer found that the agency met the requirements of KSA 2009 Supp. 77-415, *et seq.* for adopting and filing regulations and determined that the Secretary of KDHE has authority pursuant to KSA 2009 Supp. 65-3005 and 66-1275 to promulgate the above-listed administrative regulation. This regulation has been adopted by the Secretary of KDHE and filed with the Secretary of State for final publication in the *Kansas Register*.